

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of the claims**

Claims 6, 8, 9, 11-15 and 17-30 were pending in the subject application, of which claims 20-22, 25 and 27-30 have been withdrawn from consideration by the Examiner. With this submission, each of the independent claims—nos. 6, 9, 18, 19, and 23—have been amended. No claims have been canceled or newly added, however.

Hence, upon entry of this paper, the same claims will be pending and under active consideration.

**Priority**

Applicants thank the Examiner for acknowledging that the present application is entitled to claim priority to Japanese application no. 2003-432329. The foreign application, however, being filed 26 December 2003, should be granted the benefit date of 26 December 2003, *not* 26 June 2003, as indicated in the Office Action. Page 2. The Examiner is respectfully requested to acknowledge same.

**Rejections withdrawn**

Applicants acknowledge, with thanks, the Examiner's withdrawal of the previous rejections under 35 U.S.C. § 102.

**35 U.S.C. § 103 rejections**

Claims 6, 8, 9, 11-15, 17-19, 23, 24 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Neurosurgery, Vol. 49, No. 5, November 2001: 1196-1204 (Mahmood) in view of Neuropharmacology, 2000: 39: 711-716 (Chen). Applicants respectfully traverse this rejection.

The claims, as presently amended, recite the use of mesenchymal stem cells that are ***both*** (a) treated *ex vivo* with a transfection vector comprising a BDNF gene, PLGF gene, GDNF gene or IL-2 gene; ***and*** (b) immortalized by treatment *ex vivo* with a transfection

vector comprising an hTERT gene. Mahmood is silent with respect to, at least, element (b). Chen fails to cure this deficiency.

Hence, insofar the prior art, either as a single or combination of references, must teach each and every element of a claimed invention in order to render a claim *prima facie* obvious, Mahmood and Chen cannot sustain a rejection of the present claims under Section 103. Hence, Applicants respectfully request the withdrawal of this rejection.

### **Conclusion**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

By \_\_\_\_\_

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FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4621  
Facsimile: (202) 672-5399

Sunit Talapatra, Ph.D.  
Registration No. 54,482